

**63A-3-101. Creation.**

There is created within the department the Division of Finance, to be administered by a director.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-102. Director of division -- Appointment.**

(1) The executive director shall appoint the director of the Division of Finance with the approval of the governor.

(2) The director of the Division of Finance shall serve at the pleasure of the executive director.

(3) The director of the Division of Finance is the state's chief fiscal officer and the state's accounting officer.

Enacted by Chapter 212, 1993 General Session

**63A-3-103. Duties of director of division -- Application to institutions of higher education.**

- (1) The director of the Division of Finance shall:
- (a) define fiscal procedures relating to approval and allocation of funds;
  - (b) provide for the accounting control of funds;
  - (c) approve proposed expenditures for the purchase of supplies and services;
  - (d) promulgate rules that:
    - (i) establish procedures for maintaining detailed records of all types of leases;
    - (ii) account for all types of leases in accordance with generally accepted accounting principles;
    - (iii) require the performance of a lease with an option to purchase study by state agencies prior to any lease with an option to purchase acquisition of capital equipment; and
    - (iv) require that the completed lease with an option to purchase study be approved by the director of the Division of Finance;
  - (e) if the department operates the Division of Finance as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:
    - (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
    - (ii) other information or analysis requested by the Rate Committee;
  - (f) oversee the Office of State Debt Collection; and
  - (g) prescribe other fiscal functions required by law or under the constitutional authority of the governor to transact all executive business for the state.
- (2) (a) Institutions of higher education are subject to the provisions of Title 63A, Chapter 3, Part 1, General Provisions, and Part 2, Accounting System, only to the extent expressly authorized or required by the State Board of Regents under Title 53B, State System of Higher Education.
- (b) Institutions of higher education shall submit financial data for the past fiscal year conforming to generally accepted accounting principles to the director of the

Division of Finance.

(3) The Division of Finance shall prepare financial statements and other reports in accordance with legal requirements and generally accepted accounting principles for the state auditor's examination and certification:

- (a) not later than 60 days after a request from the state auditor; and
- (b) at the end of each fiscal year.

Amended by Chapter 79, 2011 General Session

**63A-3-104. Appropriation for contingency purposes -- Procedure for allotment -- Legislative intent.**

(1) (a) The Legislature shall determine the amount to be appropriated for contingency purposes, as well as the limits on the amount of any one allotment or total allotments to any one department or agency.

(b) In advance of making any such allotment, the governor shall notify the Legislature through the Office of the Legislative Fiscal Analyst, of his or her intent to do so, of the amount to be allotted, and the justification for the allotment.

(2) It is the intent of the Legislature that such transfers be made only for unforeseeable emergencies, and allotments shall not be made to correct poor budgetary practices or for purposes having no existing appropriation or authorization.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-105. Securities deposited with state treasurer -- Release.**

(1) The director of the Division of Finance shall collect and deposit with the state treasurer all stocks, evidences of indebtedness, bonds, and securities of every kind and nature belonging to the state or any of its departments.

(2) The state treasurer shall keep a complete record of the items deposited under Subsection (1) and credit each to the proper fund or account. The treasurer shall release the items only upon the order of the director.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-106. Per diem rates for board members.**

(1) As used in this section and Section 63A-3-107:

(a) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.

(b) "Board member" means a person appointed or designated by statute to serve on a board.

(c) "Executive branch" means a department, division, agency, board, or office within the executive branch of state government.

(d) "Governmental entity" has the same meaning as provided under Section 63G-2-103.

(e) "Higher education" means a state institution of higher education, as defined under Section 53B-1-102.

(f) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

(g) "Official meeting" means a meeting of a board that is called in accordance with statute.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules establishing per diem rates to defray subsistence costs for a board member's attendance at an official meeting.

(3) Unless otherwise provided by statute, a per diem rate established under Subsection (2) is applicable to a board member who serves:

- (a) within the executive branch, except as provided under Subsection (3)(b);
- (b) within higher education, unless higher education pays the costs of the per diem;
- (c) on a board that is:
  - (i) not included under Subsection (3)(a) or (b); and
  - (ii) created by a statute that adopts the per diem rates by reference to:
    - (A) this section; and
    - (B) the rule authorized by this section; and
- (d) within a government entity that is not included under Subsection (3)(a), if the government entity adopts the per diem rates by reference to:
  - (i) this section; or
  - (ii) the rule establishing the per diem rates.

(4) (a) Unless otherwise provided by statute, a board member who is not a legislator may receive per diem under this section and travel expenses under Section 63A-3-107 if the per diem and travel expenses are incurred by the board member for attendance at an official meeting.

(b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or travel expenses under this Subsection (4) if the board member is being paid by a governmental entity while performing the board member's service on the board.

(5) A board member may decline to receive per diem for the board member's service.

(6) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

**63A-3-107. Travel expenses of board members and state officers and employees.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules governing in-state and out-of-state travel expenses.

(2) Unless otherwise provided by statute, a travel expense rule established under Subsection (1) is applicable to:

- (a) a board member, an officer, or employee of the executive branch, except as

provided under Subsection (2)(b);

(b) a board member, an officer, or employee of higher education, unless higher education pays the costs of the travel expenses;

(c) a board member who:

(i) is not included under Subsection (2)(a) or (b); and

(ii) serves on a board created by a statute that adopts the travel expense rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) a government entity that is not included under Subsection (2)(a), if the government entity adopts the travel expense provisions by reference to:

(i) this section; or

(ii) the rule establishing the travel expense provisions.

(3) The Division of Finance shall make the travel expense rules on the basis of:

(a) a mileage allowance; and

(b) reimbursement for other travel expenses incurred.

(4) The travel expense rules may specify an exception to a travel expense rule or allow the director of the Division of Finance to make an exception to a travel expense rule, when justified by the executive director of the executive branch agency or department, to meet special circumstances encountered in official attendance at a conference, convention, meeting, or other official business, as determined by the director of the Division of Finance.

(5) An officer or employee of the executive branch may not incur obligations for travel outside the state without the advance approval of the executive director or a designee of the executive director of an executive branch department or agency.

(6) A board member may decline to receive travel expenses for the board member's service.

(7) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

**63A-3-201. Appointment of accounting and other officers and employees by director of the Division of Finance -- Delegation of powers and duties by director.**

(1) With the approval of the executive director, the director of the Division of Finance shall appoint an accounting officer and other administrative officers that are necessary to efficiently and economically perform the functions of the Division of Finance.

(2) The director of the Division of Finance may:

(a) organize the division and employ other assistants to discharge the functions of the division;

(b) delegate to assistants, officers, and employees any of the powers and duties of the office subject to his or her control and subject to any conditions he may

prescribe; and

(c) delegate the powers and duties of the office only by written order filed with the lieutenant governor.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-202. Comprehensive state accounting system -- Approval of agency accounting systems -- Cost accounting systems required.**

(1) The director of the Division of Finance shall establish a comprehensive state accounting system.

(2) Officers, departments, agencies, and institutions of Utah may create and maintain accounting systems only with the approval of the director.

(3) The director may, with the approval of the executive director, require any department or institution to install and maintain a cost accounting system that will disclose the unit cost of material or service produced or performed by a department.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-203. Accounting control over state departments and agencies -- Prescription and approval of financial forms, accounting systems, and fees.**

(1) The director of the Division of Finance shall:

(a) exercise accounting control over all state departments and agencies except institutions of higher education; and

(b) prescribe the manner and method of certifying that funds are available and adequate to meet all contracts and obligations.

(2) The director shall audit all claims against the state for which an appropriation has been made.

(3) (a) The director shall:

(i) prescribe all forms of requisitions, receipts, vouchers, bills, or claims to be used by all state departments and agencies;

(ii) prescribe the forms, procedures, and records to be maintained by all departmental, institutional, or agency store rooms;

(iii) exercise inventory control over the store rooms; and

(iv) prescribe all forms to be used by the division.

(b) Before approving the forms in Subsection (3)(a), the director shall obtain approval from the state auditor that the forms will adequately facilitate the post-audit of public accounts.

(4) Before implementation by any state department or agency, the director of the Division of Finance shall review and approve:

(a) any accounting system developed by a state department or agency; and

(b) any fees established by any state department or agency to recover the costs of operations.

Amended by Chapter 324, 2010 General Session

**63A-3-204. Financial control system -- Financial reports as to state funds -- Information required of executive directors of state departments.**

- (1) The director of the Division of Finance shall:
  - (a) maintain a financial control system according to generally accepted accounting principles;
  - (b) record the constituent elements of the General Fund and of each special fund in proper relationship to each other; and
  - (c) keep all accounts in balance.
- (2) The director of the Division of Finance shall prepare and submit to the governor and to the Legislature, when requested, reports showing:
  - (a) the condition of the General Fund and each special fund of the state;
  - (b) the available cash resources of the General Fund and each special fund of the state;
  - (c) as to each fund:
    - (i) the estimated revenue and anticipated time of collection;
    - (ii) the current encumbrances, future obligations, and estimated date they accrue;
    - (iii) appropriations;
    - (iv) obligations;
    - (v) monthly allotments;
    - (vi) unencumbered allotments; and
    - (vii) reserves and surpluses;
  - (d) the capital assets and liability accounts of the state; and
  - (e) the valuation account of all other state property.
- (3) The executive director of each department of state government and all institutions of higher education shall submit statements containing the information and data necessary to enable the director of the Division of Finance to submit to the governor the reports required by Subsection (2).

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-205. Revolving loan funds -- Standards and procedures -- Annual report.**

- (1) As used in this section, "revolving loan fund" means:
  - (a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;
  - (b) the Water Resources Construction Fund, created in Section 73-10-8;
  - (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;
  - (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act;
  - (e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;
  - (f) the Agriculture Resource Development Fund, created in Section 4-18-106;
  - (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;
  - (h) the Permanent Community Impact Fund, created in Section 35A-8-603;

- (i) the Petroleum Storage Tank Trust Fund, created in Section 19-6-409;
- (j) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;
- (k) the Navajo Revitalization Fund, created in Section 35A-8-1704; and
- (l) the Energy Efficiency Fund, created in Section 11-45-201.
- (2) The division shall for each revolving loan fund:
  - (a) make rules establishing standards and procedures governing:
    - (i) payment schedules and due dates;
    - (ii) interest rate effective dates;
    - (iii) loan documentation requirements; and
    - (iv) interest rate calculation requirements; and
  - (b) make an annual report to the Legislature containing:
    - (i) the total dollars loaned by that fund during the last fiscal year;
    - (ii) a listing of each loan currently more than 90 days delinquent, in default, or that was restructured during the last fiscal year;
    - (iii) a description of each project that received money from that revolving loan fund;
    - (iv) the amount of each loan made to that project;
    - (v) the specific purpose for which the proceeds of the loan were to be used, if any;
    - (vi) any restrictions on the use of the loan proceeds;
    - (vii) the present value of each loan at the end of the fiscal year calculated using the interest rate paid by the state on the bonds providing the revenue on which the loan is based or, if that is unknown, on the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold; and
    - (viii) the financial position of each revolving loan fund, including the fund's cash investments, cash forecasts, and equity position.

Amended by Chapter 227, 2014 General Session

**63A-3-301. Definitions.**

As used in this part, "account receivable" means any amount due the state or any other governmental entity as a result of a court or administrative order, or for which materials or services have been provided but for which payment has not been received by the servicing unit.

Amended by Chapter 79, 2011 General Session

**63A-3-302. Unpaid account receivable due the state.**

If any account receivable has been unpaid for more than 90 days, any agency, department, division, commission, committee, board, council, institution, or any other authority of state government responsible for collection of the account may proceed under this part to collect the delinquent amount.

Enacted by Chapter 212, 1993 General Session

**63A-3-303. Notice to debtor -- Contents.**

(1) Upon default in payment of any account receivable that is not due pursuant to final court or administrative order or judgment, the entity responsible for collecting the account shall send a notice by mail to the debtor at the debtor's last-known address.

(2) The notice shall state:

- (a) the date and amount of the receivable;
- (b) a demand for immediate payment of the amount;
- (c) a statement of the right of the debtor to file a written response to the notice, to have a hearing, to be represented at the hearing, and to appeal any decision of the hearing examiner;
- (d) the time within which a written response must be filed; and
- (e) a statement notifying the debtor that the state may obtain an order under this part and execute upon income tax overpayments or refunds of the debtor if:
  - (i) the debtor fails to respond to the notice; or
  - (ii) a hearing is held and the hearing officer decides against the debtor.

Amended by Chapter 79, 2011 General Session

**63A-3-304. Effect of nonpayment or failure to respond.**

If a written response or payment of delinquent receivable is not received by the state within 15 days from the date of receipt of the notice by the debtor, the debtor is in default and the state may determine the balance due and collect the balance as provided in Section 63A-3-307.

Amended by Chapter 79, 2011 General Session

**63A-3-305. Hearing requested -- Notice to debtor.**

If a written response is received by the state and a hearing is requested, the state shall:

- (1) set a hearing date within 30 days of the receipt of the response; and
- (2) mail written notice of the hearing to the debtor at least 15 days before the date of the hearing.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-306. Hearing examiner -- Procedures -- Adjudicative proceedings.**

(1) (a) The hearing shall be held before a hearing examiner designated by the state.

(b) The hearing examiner may not be an officer or employee of the entity in state government responsible for collecting or administering the account.

(2) The state shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Amended by Chapter 382, 2008 General Session



**63A-3-307. Abstract of order and nonpayment or failure to respond -- Liens.**

(1) The following shall constitute a lien in the amount of the receivable plus interest and collection costs allowed by law against any state income tax refund or overpayment due or to become due the debtor:

- (a) an abstract of an administrative order; or
- (b) nonpayment or failure to respond as provided under Section 63A-3-304.

(2) The lien created by this section shall, for the purposes of Section 59-10-529 only, be considered a judgment, but no credit of a tax refund or overpayment may be made on account of this lien until 20 days after the date of the administrative order.

(3) The lien created by this section shall remain effective for eight years.

Amended by Chapter 79, 2011 General Session

**63A-3-308. Judicial review -- Effect on lien.**

(1) A judicial review of a lien created under Section 63A-3-307 may be obtained by any party within one year of the creation of the lien by filing a complaint with the district court.

(2) (a) A notice of the filing of a complaint may be filed with the State Tax Commission.

(b) If notice is filed, the tax commission may take no action with respect to the lien created by Section 63A-3-307 until the matter is finally disposed of by the courts, except as provided in this part.

Amended by Chapter 79, 2011 General Session

**63A-3-309. Bond required -- Terms -- Expenses of debtor.**

(1) (a) If a complaint is filed by the debtor for judicial review of an order entered under this part, the debtor shall furnish a bond to the State Tax Commission, with good and sufficient sureties, in the amount of the delinquent receivable or the amount of any overpayment or refund due, whichever is less, unless waived by the court.

(b) The lien created by Section 63A-3-307 is then dissolved as to that overpayment or refund and the overpayment or refund shall be released to the debtor.

(2) The bond shall provide that the surety will pay, upon a final determination adverse to the debtor, the amount of the bond or any other lesser amount as the court may determine, to the State Tax Commission for the use and benefit of the entity of state government obtaining the order.

(3) If the judicial review finds the claim of the state invalid, the state shall reimburse the debtor all reasonable expenses and attorney's fees incurred.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-310. Rules for implementing part.**

The Board of Examiners may adopt rules for the implementation of this part, including rules for the conduct of hearings and appointment of hearing examiners.

Renumbered and Amended by Chapter 212, 1993 General Session

**63A-3-401. Definitions.**

As used in this part:

- (1) "Board" means the Utah Transparency Advisory Board created under Section 63A-3-403.
- (2) "Division" means the Division of Finance of the Department of Administrative Services.
- (3) (a) "Independent entity," except as provided in Subsection (3)(b), is as defined in Section 63E-1-102.
  - (b) "Independent entity" does not include:
    - (i) the Workers' Compensation Fund created in Section 31A-33-102; or
    - (ii) the Utah State Retirement Office created in Section 49-11-201.
- (4) "Participating local entity" means each of the following local entities, if the entity meets the size or budget thresholds established by the board under Subsection 63A-3-403(3)(e):
  - (a) a county;
  - (b) a municipality;
  - (c) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;
  - (d) a special service district under Title 17D, Chapter 1, Special Service District Act;
  - (e) a school district;
  - (f) a charter school; and
  - (g) an interlocal entity as defined in Section 11-13-103.
- (5) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.
- (6) "Public financial information" means records that are required to be made available on the Utah Public Finance Website, a participating local entity's website, or an independent entity's website as required by this part, and as the term "public financial information" is defined by rule under Section 63A-3-404.

Amended by Chapter 185, 2014 General Session

**63A-3-402. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.**

- (1) There is created the Utah Public Finance Website to be administered by the Division of Finance with the technical assistance of the Department of Technology Services.
- (2) The Utah Public Finance Website shall:
  - (a) permit Utah taxpayers to:
    - (i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities,

independent entities, and participating local entities, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities or independent entities that do not use the Utah Public Finance Website for the purpose of providing participating local entities' or independent entities' public financial information as required by this part and by rule under Section 63A-3-404;

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule under Section 63A-3-404;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-3-404; and

(h) include a link to school report cards published on the State Board of Education's website pursuant to Section 53A-1-1112.

(3) The division shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities;

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities; and

(e) provide staff support for the advisory committee.

(4) (a) A participating state entity and each independent entity shall permit the public to view the entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:

(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009; and

(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.

(b) No later than May 15, 2009, the website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in Subsections (4)(c) and (d).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.

(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the division for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the division, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) The following independent entities shall each provide administrative expense transactions from its general ledger accounting system and employee compensation information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:

(i) the Utah Capital Investment Corporation, created in Section 63M-1-1207;

(ii) the Utah Housing Corporation, created in Section 35A-8-704; and

(iii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.

(b) For purposes of this part, an independent entity described in Subsection (6)(a) is not required to submit to the division, or provide a link to, other financial information, including:

(i) revenue transactions of a fund or account created in its enabling statute;

(ii) fiduciary or commercial information related to any subject if the disclosure of the information:

(A) would conflict with fiduciary obligations; or

(B) is prohibited by insider trading provisions;

(iii) information of a commercial nature, including information related to:

(A) account owners, borrowers, and dependents;

(B) demographic data;

(C) contracts and related payments;

(D) negotiations;

(E) proposals or bids;

(F) investments;

(G) the investment and management of funds;

(H) fees and charges;

(I) plan and program design;

(J) investment options and underlying investments offered to account owners;

(K) marketing and outreach efforts;

(L) lending criteria;

(M) the structure and terms of bonding; and

(N) financial plans or strategies; and

(iv) information protected from public disclosure by federal law.

(7) (a) As used in this Subsection (7):

(i) "Local education agency" means a school district or a charter school.

(ii) "New school building project" means the construction of a school that did not previously exist in a local education agency.

(iii) "Significant school remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school in a local education agency with a project cost equal to or in excess of \$2,000,000.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the division for publication on the Utah Public Finance Website; and

(B) in a format, including any raw data or electronic formatting, prescribed by applicable division policy.

(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the project or remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

(B) facility construction;

(C) facility and landscape design;

(D) applicable impact fees; and

(E) furnishings and equipment;

(iii) the gross square footage of the project or remodel;

(iv) the year construction was completed; and

(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local education agency shall report the actual cost, fee, or other expense.

(ii) The division may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the division a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the division annually by a date designated by the division.

(8) A person who negligently discloses a record that is classified as private,

protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

Amended by Chapter 64, 2014 General Session  
Amended by Chapter 185, 2014 General Session

**63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership -- Duties.**

- (1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.
- (2) The board consists of:
  - (a) an individual appointed by the director of the Division of Finance;
  - (b) an individual appointed by the executive director of the Governor's Office of Management and Budget;
  - (c) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;
  - (d) one member of the Senate, appointed by the governor on advice from the president of the Senate;
  - (e) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;
  - (f) an individual appointed by the director of the Department of Technology Services;
  - (g) the director of the Division of Archives created in Section 63A-12-101 or the director's designee;
  - (h) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;
  - (i) an individual representing counties, appointed by the governor;
  - (j) an individual representing municipalities, appointed by the governor;
  - (k) an individual representing special districts, appointed by the governor; and
  - (l) two individuals who are members of the public and who have knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through (k).
- (3) The board shall:
  - (a) advise the division on matters related to the implementation and administration of this part;
  - (b) develop plans, make recommendations, and assist in implementing the provisions of this part;
  - (c) determine what public financial information shall be provided by a participating state entity, independent entity, and participating local entity, if the public financial information:
    - (i) only includes records that:
      - (A) are classified as public under Title 63G, Chapter 2, Government Records

Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state entity, independent entity, or participating local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) establish size or budget thresholds to identify those local entities that qualify as participating local entities as defined in this part, giving special consideration to the budget and resource limitations of an entity with a current annual budget of less than \$10,000,000;

(f) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(g) require an independent entity's website or a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the independent entity or participating local entity does not use the Utah Public Finance Website;

(h) determine the search methods and the search criteria that shall be made available to the public as part of a website used by an independent entity or a participating local entity under the requirements of this part, which criteria may include:

(i) fiscal year;

(ii) expenditure type;

(iii) name of the agency;

(iv) payee;

(v) date; and

(vi) amount; and

(i) analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of:

(i) infographics that provide more context to the data; and

(ii) geolocation services, if possible.

(4) The board shall annually elect a chair and a vice chair from its members.

(5) (a) Each member shall serve a two-year term.

(b) When a vacancy occurs in the membership for any reason, the replacement

shall be appointed for the remainder of the unexpired term.

(6) To accomplish its duties, the board shall meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

(9) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) (a) As used in Subsections (10) and (11):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state government, local government, or an independent entity that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

(iv) identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an



information website;

(ii) (A) permanent, lasting, open access to public information; and

(B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

(11) The department shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to:

(a) by January 1, 2015, serve as a point of access for Government Records Access and Management requests for executive agencies;

(b) by January 1, 2016, serve as a point of access for Government Records Access and Management requests for:

(i) school districts;

(ii) charter schools;

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(iv) counties; and

(v) municipalities;

(c) by January 1, 2017, serve as a point of access for Government Records Access and Management requests for:

(i) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts; and

(ii) special service districts under Title 17D, Chapter 1, Special Service District Act;

(d) except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites;

(e) provide multiple download options in different formats, including nonproprietary, open formats where possible;

(f) provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and

(g) incorporate technical elements the board identifies as useful to a citizen using the information website.

(12) (a) The department, in consultation with the board, shall establish by rule

any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern.

(b) The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 75, 2014 General Session

Amended by Chapter 185, 2014 General Session

Amended by Chapter 387, 2014 General Session

**63A-3-404. Rulemaking authority.**

(1) After consultation with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules to:

(a) require participating state entities to provide public financial information for inclusion on the Utah Public Finance Website;

(b) define, either uniformly for all participating state entities, or on an entity by entity basis, the term "public financial information" using the standards provided in Subsection 63A-3-403(3)(c); and

(c) establish procedures for obtaining, submitting, reporting, storing, and providing public financial information on the Utah Public Finance Website, which may include a specified reporting frequency and form.

(2) After consultation with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance may make rules to:

(a) require a participating state or local entity to list certain expenditures made by a person under a contract with the entity; and

(b) if a list is required under Subsection (2)(a), require the following information to be included:

(i) the name of the participating state or local entity making the expenditure;

(ii) the name of the person receiving the expenditure;

(iii) the date of the expenditure;

(iv) the amount of the expenditure;

(v) the purpose of the expenditure;

(vi) the name of each party to the contract;

(vii) an electronic copy of the contract; or

(viii) any other criteria designated by rule.

Amended by Chapter 75, 2014 General Session

Amended by Chapter 185, 2014 General Session

Amended by Chapter 387, 2014 General Session

**63A-3-405. Participation by local entities.**

(1) (a) Not later than May 15, 2010, the following participating local entities, in conformity with the rules established under Section 63A-3-404, shall provide public financial information through the Utah Public Finance Website or their own website and

provide a link to their website through the Utah Public Finance Website:

- (i) school districts;
- (ii) charter schools; and
- (iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(b) Participating local entities subject to this Subsection (1) shall permit information that is generated not later than the fiscal year that begins July 1, 2009, to be accessible via the website.

(2) (a) Not later than May 15, 2011, the following participating local entities, in conformity with the rules established under Section 63A-3-404, shall be required to provide public financial information through the Utah Public Finance Website or their own website and provide a link to their website through the Utah Public Finance Website:

- (i) counties;
- (ii) municipalities;
- (iii) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, that are not already required to report; and
- (iv) special service districts under Title 17D, Chapter 1, Special Service District Act.

(b) Participating local entities subject to this Subsection (2) shall permit information that is generated not later than the fiscal year that begins July 1, 2010, to be accessible via the website.

(3) (a) On or before May 15, 2013, an interlocal entity that is a participating local entity in conformity with the rules established under Section 63A-3-404, shall, subject to Subsection (3)(b), provide public financial information through the Utah Public Finance Website or the interlocal entity's own website and provide a link to their website through the Utah Public Finance Website.

(b) A participating local entity subject to this Subsection (3) shall provide public financial information that is generated on or after the fiscal year that begins July 1, 2012, to be accessible via the website.

Amended by Chapter 94, 2012 General Session

**63A-3-406. Submission of public financial information by a school district or charter school.**

When submitting public financial information to the Utah Public Finance Website, a school district or charter school shall classify transactions in accordance with the uniform chart of accounts that school districts and charter schools are required to use for budgeting, accounting, financial reporting, and auditing purposes pursuant to rules adopted by the State Board of Education.

Enacted by Chapter 435, 2013 General Session

**63A-3-501. Definitions.**

As used in this part:

(1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third-party claims, sale of goods, sale of services, claims, and damages.

(2) "Administrative offset" means:

(a) a reduction of an individual's tax refund or other payments due to the individual to reduce or eliminate accounts receivable that the individual owes to a state agency; and

(b) a reduction of an entity's tax refund or other payments due to the entity to reduce or eliminate accounts receivable that the entity owes to a state agency.

(3) "Entity" means an individual, a corporation, partnership, or other organization that pays taxes to or does business with the state.

(4) "Office" means the Office of State Debt Collection established by this part.

(5) "Past due" means any accounts receivable that the state has not received by the payment due date.

(6) "Restitution to victims" means restitution ordered by a court to be paid to a victim of an offense in a criminal or juvenile proceeding.

(7) (a) "State agency" includes:

(i) any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of Utah state government;

(ii) the legislative branch of state government; and

(iii) the judicial branches of state government, including justice courts.

(b) "State agency" does not include:

(i) any institution of higher education;

(ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or

(iii) the administrator of the Uninsured Employers' Fund appointed by the Labor Commissioner under Section 34A-2-704, solely for the purposes of collecting money required to be deposited into the Uninsured Employers' Fund under:

(A) Section 34A-1-405;

(B) Title 34A, Chapter 2, Workers' Compensation Act; or

(C) Title 34A, Chapter 3, Utah Occupational Disease Act.

(8) "Writing-off" means the removal of an accounts receivable from an agency's accounts receivable records but does not necessarily eliminate further collection efforts.

Amended by Chapter 286, 2014 General Session

### **63A-3-502. Office of State Debt Collection created -- Duties.**

(1) The state and each state agency shall comply with the requirements of this chapter and any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

- (3) The office shall:
- (a) have overall responsibility for collecting and managing state receivables;
  - (b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;
  - (c) oversee and monitor state receivables to ensure that state agencies are:
    - (i) implementing all appropriate collection methods;
    - (ii) following established receivables guidelines; and
    - (iii) accounting for and reporting receivables in the appropriate manner;
  - (d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;
  - (e) provide information, training, and technical assistance to each state agency on various collection-related topics;
  - (f) write an inclusive receivables management and collection manual for use by each state agency;
  - (g) prepare quarterly and annual reports of the state's receivables;
  - (h) create or coordinate a state accounts receivable database;
  - (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;
  - (j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;
  - (k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;
  - (l) establish an automated cash receipt process between each state agency;
  - (m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;
  - (n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or its designee;
  - (o) be a real party in interest for an account receivable referred to the office by any state agency or for any restitution to victims referred to the office by a court; and
  - (p) allocate money collected for judgments registered under Section 77-18-6 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110.
- (4) The office may:
- (a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;
  - (b) collect accounts receivables for higher education entities, if the higher education entity agrees;
  - (c) prepare a request for proposal for consulting services to:
    - (i) analyze the state's receivable management and collection efforts; and
    - (ii) identify improvements needed to further enhance the state's effectiveness in collecting its receivables;
  - (d) contract with private or state agencies to collect past-due accounts;
  - (e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;
  - (f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of

Section 63G-2-206, including the financial disclosure form described in Section 78-38a-204;

(g) collect interest and fees related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-504:

(i) a fee to cover the administrative costs of collection, on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

(h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;

(j) file a satisfaction of judgment in the court by following the procedures and requirements of the Utah Rules of Civil Procedure;

(k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record; and

(m) enter into written agreements with other governmental agencies to obtain information for the purpose of collecting state accounts receivable and restitution for victims.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor as referred to in Subsection (4)(l):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any person employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6) (a) The office shall collect accounts receivable ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 76-3-201.1(5)(h) or (8).

(b) The office may not assess the interest charge established by the office

under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4.

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or its designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report their receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of its receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) The office shall use the information provided by the agencies and any additional information from the office's records to compile a one-page summary report of each agency.

(9) The summary shall include:

(a) the type of revenue that is owed to the agency;

(b) any attempted collection activity; and

(c) any costs incurred in the collection process.

(10) The office shall annually provide copies of each agency's summary to the governor and to the Legislature.

Amended by Chapter 74, 2013 General Session

### **63A-3-503. Legal services.**

The Office of the Attorney General shall:

(1) provide to the office all legal services and advice related to the collection of accounts receivable:

(a) owed to the state; or

(b) for which the office has collection responsibilities; and

(2) establish policies governing:

(a) legal matters involving accounts receivable; and

(b) litigation of past-due accounts receivable.

Amended by Chapter 74, 2013 General Session

### **63A-3-504. Rulemaking authority -- Collection techniques.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules:

(1) providing details, as necessary, for the distribution of debts collected in

- accordance with the priorities under Subsection 63A-3-505(3); and
- (2) to govern collection techniques, which may include the use of:
    - (a) credit reporting bureaus;
    - (b) collection agencies;
    - (c) garnishments;
    - (d) liens;
    - (e) judgments; and
    - (f) administrative offsets.

Renumbered and Amended by Chapter 79, 2011 General Session

**63A-3-505. State Debt Collection Fund.**

- (1) There is created an expendable special revenue fund entitled the "State Debt Collection Fund."
- (2) The fund consists of:
  - (a) all amounts appropriated to the fund under this chapter;
  - (b) fees and interest established by the office under Subsection 63A-3-502(4)(g); and
  - (c) except as otherwise provided by law, all postjudgment interest collected by the office or the state except postjudgment interest on restitution.
- (3) Money in this fund shall be used to pay for:
  - (a) the costs of the office in the performance of its duties under this chapter;
  - (b) restitution to victims to whom the debt is owed;
  - (c) interest accrued that is associated with the debt;
  - (d) principal on the debt to the state agencies or other entities that placed the receivable for collection; and
  - (e) other legal obligations including those ordered by a court.
- (4) (a) The fund may collect interest.
- (b) All interest earned from the fund shall be deposited in the General Fund.
- (5) The office shall ensure that money remaining in the fund at the end of the fiscal year that is not committed under the priorities established under Subsection (3) is deposited into the General Fund.
- (6) (a) The office shall report at least annually to the appropriations subcommittee assigned to review the budget of the Department of Administrative Services on the fund balance and its revenues and expenditures and administrative offsets.
- (b) The report shall include the amounts paid under each provision under Subsection (3).

Amended by Chapter 400, 2013 General Session

**63A-3-506. Allocation of funds.**

- (1) Except as provided in Subsection (2), the money collected by the office less the office's fees shall be allocated on a prorated basis to the various revenue types that generated the accounts receivable.



- (2) Notwithstanding the requirements of Subsection (1):
  - (a) federal cost allocation requirements for specific accounts receivable related to programs that are supported by federal funds take precedence over other cost allocation methods provided in this section; and
  - (b) the office shall use interest and fees collected on past due accounts receivable as provided in Section 63A-3-505.

Renumbered and Amended by Chapter 79, 2011 General Session

**63A-3-507. Administrative garnishment order.**

(1) If a judgment is entered against a debtor, the office may, subject to Subsection (2), issue an administrative garnishment order against the debtor's personal property and wages in the possession of a third party in the same manner and with the same effect as if the order was a writ of garnishment issued in district court.

(2) The office may issue the administrative garnishment order if:

(a) the order is:

(i) signed by the director or the director's designee; and

(ii) served by certified mail, return receipt requested, or as prescribed by Rule 4, Utah Rules of Civil Procedure; and

(b) (i) the underlying debt is for nonpayment of restitution as defined in Section 77-38a-102; or

(ii) the underlying debt is for nonpayment of an order for payment issued by the Labor Commission, established in Section 34A-1-103, for wage claims.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property;  
and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment;

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property; and

(v) that the plaintiff has attached or will serve the garnishee fee established in Section 78A-2-216;

(b) identify the defendant, including:

(i) the defendant's name and address; and

(ii) if known:

(A) the last four digits of the defendant's Social Security number;

(B) the last four digits of the defendant's driver license; and

(C) the state in which the driver license was issued;

(c) include one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant, and, if so, the nature, location, and estimated value of the property;

(iii) (A) whether the garnishee knows of any property of the defendant in the possession or under the control of another; and

(B) the nature, location, and estimated value of the defendant's property in possession or under the control of another, and the name, address, and phone number of the person with possession or control;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, a designation as to whom the claim relates, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which previously served writs of continuing garnishment were served, if any; and

(vii) any other relevant information the office may request, including the defendant's position, rate, and method of compensation, pay period, or computation of the amount of the defendant's disposable earnings;

(d) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(e) state where the garnishee may deliver property.

(5) (a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (5)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount ordered by the court, including:

(i) the value of the property or the value of the judgment, whichever is less;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(c) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(6) A creditor who files a motion for an order to show cause under this section shall attach to the motion a statement that the creditor has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(7) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(8) (a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (8)(a) discharges the debtor for the amount paid.

(9) A garnishee may deduct from the property any liquidated claim against the defendant.

(10) (a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (10)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii) (A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(11) (a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to the defendant from the date of service upon the garnishee until the earlier of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by the district court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (12);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (12) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(12) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or  
(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(13) The administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.

Enacted by Chapter 69, 2013 General Session